

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

v.

CASE NO. 4:18-CR-00482-BSM-01

SHAWN WAYNE SMITH

DEFENDANT

ORDER

Shawn Wayne Smith’s motion to reduce sentence and appoint counsel [Doc. No. 36] is denied. Although the retroactive application of Amendment 821 to the Federal Sentencing Guidelines lowers Smith’s criminal history score from 13 to 12, resulting in a new criminal history category of V, his plea agreement waived his right to relief. Doc. No. 24. Smith’s plea agreement provides that he “waives the right to have these sentence modified pursuant to Title 18, United States Code, Section 3582(c)(2)” *Id.* Because Smith knowingly and voluntarily entered into his plea agreement, he is not entitled to relief. *United States v. Cowan*, 781 F. App’x 571 (8th Cir. 2019) (affirming dismissal of a § 3582(c)(2) motion when the record established that the defendant knowingly and voluntarily entered the plea agreement). Additionally, the benefit of the plea agreement—avoiding the statutory, mandatory 60 months on Count 2 consecutive to his term of imprisonment on Count 1—is better than the 10-month reduction he would receive under Amendment 821.

IT IS SO ORDERED this 2nd day of January, 2024.


UNITED STATES DISTRICT JUDGE